

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
DIVISION OF JUDGES
ATLANTA BRANCH OFFICE

WARREN UNILUBE, INC.

and

CASE 26-CA-23910

TEAMSTERS, LOCAL UNION NO. 667

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for the Respondent.
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for the Charging Party.

DECISION

Statement of the Case

ROBERT A. RINGLER, Administrative Law Judge. This case was tried in Memphis, Tennessee, on July 11, 2011. The charge in this proceeding was filed by the Teamsters, Local Union No. 667 (the Union) on November 22, 2010.¹ The Union represents a bargaining unit, which includes production, maintenance, and warehouse employees (the unit), who are employed by Warren Unilube, Inc. (the Respondent or Company) at its West Memphis, Arkansas facility (the facility). On February 28, 2011, a complaint issued alleging that the Company violated Section 8(a)(1) and (5) of the National Labor Relations Act (the Act) by unilaterally changing the unit's cell phone and radio usage policy (the CR Policy).

On the entire record, including my observation of the demeanor of the witnesses, and after considering the parties' briefs,² I make the following

¹ All dates herein are in 2010, unless otherwise stated.

² The Union did not submit a posthearing brief.

Findings of Fact

I. Jurisdiction

At all material times, the Company, an Arkansas corporation, with an office and place of business at the facility, has manufactured petroleum products. Annually, it sells and ships goods valued in excess of \$50,000 directly from the facility to points located outside of Arkansas. Accordingly, it admits, and I find, that it is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act. It further admits, and I find, that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. Alleged Unfair Labor Practices

A. Background

The Company blends, produces, and packages petroleum products. Its facility is an expansive and highly-automated enterprise, which includes: a series of high volume oil and chemical storage tanks; multiple warehouses; production, blending, blow molding, and packaging operations; and an office complex. The facility produces roughly 200 oil-based products, including: 10W-30 motor oils; hydraulic, brake and transmission fluids; and gear oils.

On November 5, Region 26 for the National Labor Relations Board (the Board) conducted a representation election at the facility, which resulted in the unit voting in favor of unionization.³ (GC Exh. 2). Thereafter, the Company filed objections, which were ultimately denied by the Board. As a result, on March 16, 2011, the Board certified the Union as the unit's representative. (GC Exh. 3). The Company, subsequently, filed an appeal with the United States Court of Appeals, which is presently pending.⁴

B. Preelection CR Policies

Before the election, the Company employed various CR policies.⁵ It continuously maintained a facility-wide CR policy, as well as a stricter CR policy in its production department.

1. Facility-Wide CR Policy

On July 13, 2007, Dale Wells, president, disseminated the Company's first formulation of its facility-wide CR policy (the original facility-wide CR policy), which stated:

Effective IMMEDIATELY, cell phones WILL NOT be used while operating

³ There are approximately 135 employees in the unit.

⁴ The parties, however, stipulated that, by litigating the instant charge, the Company "does not . . . waive any arguments . . . regarding the validity of the Union's certification" (JT Exh. 1).

⁵ The employee handbook, however, did not contain a CR policy or discuss cell phone or radio usage, beyond stating that "[p]ersonal telephone calls should be held to a minimum and received only during work breaks." (GC Exh. 8).

ANY type of company equipment. This includes Forklifts, Loading/unloading Trucks or Railcars, Operating production lines, etc.

(GC Exh. 5) (emphasis as in original). This policy, however, failed to address whether cell phones could be used, while not operating Company equipment, or offer any guidance concerning radio usage. Rusty Brown, plant manager, credibly testified that this policy was posted and circulated.

2. Production Department CR Policy

Aaron Black, quality assurance manager, credibly testified that, since approximately 2007, the production department, which he oversaw, applied a more conservative CR policy, which banned all cell phone usage (the production CR policy). This policy was memorialized within a checklist for new production employees, which succinctly stated, “[n]o cell phones are allowed in the plant” (GC Exh. 9). Black stated that he reminded production employees about this policy at periodic staff meetings,⁶ and that some production employees were disciplined for violating this policy. Between 2008 and 2009, for instance, five production employees received discipline ranging from warning letters to a 3-day suspension for cell phone-related infractions. (GC Exhs. 11-18). The production CR policy was, however, silent concerning radio usage. The Company failed to present any evidence that nonproduction employees were ever disciplined under the more conservative production CR policy.

3. Enforcement of the Original CR Policy Outside of the Production Department

Annie Morris, a unit forklift operator and long-term employee, testified that, although she observed a CR policy posted at the facility before the election, she could not recall its exact text. She attempted, however, to paraphrase her recollection of the posted CR policy, and related that it solely banned cell phone usage, while operating equipment. She added that, consequently, she openly used her cell phone, and simply parked her forklift before doing so. She noted that she observed other employees openly using their cell phones during the workday, and averred that she was unaware of any disciplinary consequences. She recollected that, in July, James Mengarelli, her supervisor, saw her using her cell phone during worktime, and patiently waited, without comment, for her to finish her call. She reported that, before the election, radios were commonly played throughout the facility.

For several reasons, I fully credit Morris’ testimony. First, regarding demeanor, she was a sincere and forthright witness, who was consistently helpful. Second, although she enjoyed no obvious stake in the proceeding, she candidly provided testimony that was adverse to the Company’s interests, even though she risked potential disapproval from the audience of management agents and officials who attended the hearing. Her willingness to fully cooperate, in spite of this substantial risk, resonates heavily in favor of her credibility. Third, her testimony was consistent with the documentary evidence, i.e., her oral summary of the CR policy was analogous to the documented original facility-wide CR policy. See (GC Exh. 5).

⁶ His reminder, however, lifted the full ban on cell phones, and allowed cell phone usage during breaks and lunch periods. (GC Exh. 10) (“cell phone use at any time other than breaks or lunch is prohibited”).

Roshel Howard, a unit worker and long-term warehouse employee, testified that, before the election, she was never directly told by supervision that the Company actually had a CR policy. She acknowledged, however, that she knew that cell phones could not be used, for example, while operating a forklift. She stated that she consistently brought her cell phone to work, and openly used it. She related that she shares an office with Supervisor Mengarelli, and that he has repeatedly observed her cell phone usage, without incident. She added that she was unaware of any rule prohibiting radio usage, and routinely observed employees playing radios at their workstations. For essentially the same reasons described under Morris' testimony, I also fully credit Howard's testimony.

C. Postelection CR Policy

Following the November 5 union election, the Company amended the facility-wide CR policy (the amended facility-wide CR policy). The Company unilaterally issued the amended facility-wide CR policy, without notifying the Union, or otherwise engaging in bargaining over this matter. This amendment is the gravamen of the instant litigation. Specifically, on November 16, Gary Johanyak, vice president of operations, distributed, via email, the following memorandum:

All employees must be alert and capable of hearing a fellow employee in need of assistance. With this in mind, the wearing of any type of ear phones, ear buds or any other such device used for listening to radios, iphones, ipods, mp3 players, cell phones, blue tooth devices, or any other device capable of producing sound *is not allowed*. This . . . includes . . . radios or . . . boom boxes. An exception will be made for radios in an office where the sound is low enough that it cannot be heard by . . . workers or by customers conducting business on the telephone.

All the above impair the hearing and communication of one employee with another in case of need or endangerment and will be considered a violation of our safety rules and a violation of the employee handbook.

Also, the use of cell phones, iphones, blackberry, ipad or any other communicative devices at the workplace except at designated break times and lunch *is strictly prohibited*. Communications regarding the operations of the plant primarily by managers and supervisors are accepted.

In the case of emergencies, please let your people know they should contact the guard for all emergencies . . . , the guard will then notify the employee.

The above is effective immediately and violations will result in disciplinary action

Please have a meeting with all your employees as soon as possible and inform them of these rules and the consequences

(GC Exh. 4) (emphasis as in original). Howard and Morris credibly testified that, following the dissemination of the amended facility-wide CR policy, employees ceased using cell phones and radios at the facility.⁷

5 Brown and Johanyak testified that the amended facility-wide CR policy was simply a reiteration of the CR policy that was in place before the election, although they each failed to describe exactly when the amended facility-wide CR policy supplanted the original facility-wide CR policy. In support of their testimony, the Company offered a photograph, taken on July 10, 2011 (i.e., the day before the hearing), of a bulletin board posting, which paraphrased the
10 amended facility-wide CR policy, and stated, “unauthorized use of cell phones is prohibited . . . [y]ou may use your phones [only] at breaks and lunch in authorized areas.” (R. Exhs. 5A-B). Brown testified that similar notices were continuously posted throughout the facility since roughly 2007. The Company, however, conspicuously failed to explain why, beyond the photograph taken the day before the hearing, it wholly neglected to offer any documentary
15 evidence memorializing its previous amendment of the facility-wide CR policy.

For several reasons, I do not credit Brown’s and Johanyak’s testimonies that the November 16 email solely reiterated an earlier CR policy, which became effective before the November 5 election.⁸ Moreover, I also do not credit Brown’s testimony that the CR policy
20 depicted by the photograph had been posted at the facility since 2007. See (R. Exh. 5A-B). First, because the amended facility-wide CR policy was dramatically stricter than the original facility-wide CR policy, I find it extremely unlikely that this important policy change would not have been contemporaneously documented. As noted, the Company failed, without explanation, to offer any documentary evidence, which memorialized its decision to amend the facility-wide
25 CR policy, and, instead, solely offered a photograph that was taken a day before the hearing. It’s inexplicable that the Company would fully document its implementation of the original facility-wide CR policy in 2007 (see (GC Exhs. 5-6)), and yet wholly fail to document its alleged preelection implementation of the amended facility-wide CR policy. Simply put, the Company’s failure to provide documentary evidence supporting this key testimony renders such testimony
30 incredible. Second, I find it unlikely that the Company would have overrode and replaced the less stringent original facility-wide CR policy within months of its issuance. As noted, Brown and Johanyak testified that the amended facility-wide CR policy became effective in 2007, which was the same time that the original facility-wide CR policy became effective. Third, I find that Brown’s and Johanyak’s testimonies on this point were deeply inconsistent with Morris’ and
35 Howard’s very credible testimonies that, before the election, employees were permitted to openly use cell phones, unless operating company equipment. Lastly, I discredit Brown’s and Johanyak’s testimonies on the basis of their demeanors. Specifically, I found them each to be partial witnesses, who appeared to advocate the Company’s legal position. I find, as a result, that I cannot credit their testimony on these issues, and, specifically, that the amended facility-wide
40 CR policy was not issued before the election.

⁷ They added that they continue to covertly use their cell phones.

⁸ Inasmuch as Black’s production department maintained a more stringent CR policy than the remainder of the facility, it was difficult to discern whether his testimony that a more stringent CR policy existed at the facility was limited solely to his production department, or addressed the entire facility. To the extent that his testimony can be construed to address the entire facility, I discredit such testimony for the same reasons that are cited under Brown’s and Johanyak’s testimonies.

D. Union Bargaining Request

On November 23, the Union requested the Company to commence collective bargaining regarding the unit’s wages, hours, and other terms and conditions of employment. (R. Exh. 8). To date, the Company has refused to bargain over any such matters, including its CR policies.

E. CR Policy’s Rationale

Black and Brown credibly testified that the facility is highly-automated, and potentially hazardous. They added that, in order to remain safe, employees must maintain a level of awareness, which is incompatible with cell phone or radio usage. They related that the Company’s amended facility-wide CR policy addressed these important workplace safety issues. They contended that the Company was required to address such issues under the general duties clause of the Occupational Safety and Health Act (OSHA).

III. Analysis

A. Legal Framework

In *San Miguel Hospital Corp.*, 357 NLRB No. 36, slip op. at 2 (2011), the Board described an employer’s obligation to bargain with a newly established union as follows:⁹

Sections 8(a)(5) and (d) of the Act obligate an employer to bargain with the representative of its employees in good faith with respect to “wages, hours and other terms and conditions of employment.” . . . Section 8(a)(5) also obligates an employer to notify and consult with a union concerning changes in terms and conditions of employment before imposing such changes. . . . When a majority of the unit employees have selected the union as their representative in a Board-conducted election, *the obligation to bargain, at least with respect to changes in terms and conditions of employment, commences . . . [on] the date of the election.*

(Id.) (citations omitted, with emphasis added). A bargaining obligation similarly arises when an employer enforces an unchanged rule in a more rigorous manner. See, e.g., *Vanguard Fire & Supply Co.*, 345 NLRB 1016 (2005) (changing from lax to stringent enforcement).

In order to trigger a bargaining obligation, a unilateral change must be material, substantial and significant. *Crittenton Hospital*, 342 NLRB 686 (2004). A change will not, however, constitute an unlawful unilateral change, when it narrowly addresses a newly arising condition encompassed by a pre-existing rule. See *Goren Printing Co.*, 280 NLRB 1120 (1986) (limited fine tuning of pre-existing rules).

⁹ Given that the Company is challenging the certification and admits a refusal to bargain, the violations found herein are contingent upon enforcement of the Board’s Order in *Warren Unilube, Inc.*, 357 NLRB No. 9 (2011).

A unilateral change is similarly not unlawful, when the change is mandated by Federal law.¹⁰ *Exxon Shipping Co.*, 312 NLRB 566, 567–568 (1993); *Murphy Oil USA*, 286 NLRB 1039, 1042 (1987); *Standard Candy Co.*, 147 NLRB 1070, 1073 (1964). The Board has held, however, that, if an employer possesses discretion regarding how to implement a Federal mandate, unilateral implementation of the mandate itself remains unlawful because bargaining can still occur over the discretionary component of the mandate. See, e.g., *Hanes Corp.*, 260 NLRB 557, 562–563 (1982) (failure to consult with a union concerning an OSHA-mandated respirator program violated the Act, where the type of respirator to be selected remained discretionary); *Dickerson-Chapman, Inc.*, 313 NLRB 907 (1994) (failure to consult with a union regarding the OSHA-mandated designation of “competent persons” was unlawful, where the selection methodology remained discretionary); *Christopher Street Owners Corp.*, 294 NLRB 277, 281–282 (1989).

B. Unilateral Implementation of the Amended Facility-Wide CR Policy was Unlawful

The Company was obligated to bargain over changes to its cell phone and radio rules. It is well established that such topics are mandatory bargaining subjects. *Vanguard Fire & Supply Co.*, supra (cell phones); *Murphy Oil USA, Inc.*, supra (radios). In addition, the unilateral change at issue herein was material, substantial and significant. The amended facility-wide CR policy changed the original facility-wide CR policy by, inter alia: transitioning from previously permitting cell phone usage in nonproduction departments,¹¹ when not operating equipment, to restricting all cell phone usage, outside of break or lunch periods; moving from a previously unregulated setting to commencing an almost complete ban on radios, ipods, mp3 players and related devices in all departments; and changing from an environment of loose enforcement in nonproduction departments to expressly threatening “disciplinary action” for future violations. Contrary to the Company’s assertions, these changes were far-reaching, and ran far afield of the mere fine tuning of a constant policy.

The Company unilaterally changed the CR policy, after its obligation to bargain with the Union had accrued. As stated, it unilaterally promulgated the amended facility-wide CR policy on November 16, even though its bargaining obligation accrued on November 5, the election date. *San Miguel Hospital Corp.*, supra. In spite of the Company’s assertions to the contrary, its bargaining obligation did not subsequently commence with the Union’s November 23 bargaining request. *Id.* I find, therefore, that the Company’s unilateral implementation of the amended facility-wide CR policy violated Section 8(a)(5).

C. Affirmative Defense

The Company contends that, even assuming arguendo that it had a bargaining obligation

¹⁰ See also *Southern Steamship Co. v. NLRB*, 316 U.S. 31 (1942) (strike on ship at dock in violation of maritime law unlawful, notwithstanding Act’s protections); *U. S. Bulk Carriers v. Arguelles*, 400 U.S. 351 (1971) (employer could not compel arbitration of seaman’s wage claim pursuant to collective-bargaining agreement in light of provisions of maritime law granting seamen right to bring action in court).

¹¹ As noted, the production department already had a stricter prohibition against cell phone usage.

regarding the CR policy, its unilateral action remained lawful because it was mandated by OSHA to revise its CR policy. It avers that this mandate absolved its violation, if any, of the Act. In furtherance of its position, it cites OSHA’s general duties clause, which provides as follows:

5 [Employers] shall furnish to . . . employees . . . a place of employment . . . free
from recognized hazards that are causing or are likely to cause death or serious
physical harm

10 29 U.S.C. Sec. 654(a)(1). It asserts that, because distracted employees could be harmed while
using cell phones and radios at its automated and hazardous facility, it was mandated under
OSHA to comprehensively ban such usage.

15 I find that this argument lacks merit, and that the Company’s bargaining obligation was
not eliminated under OSHA’s general duties clause. Although the Company is clearly obligated
to minimize workplace hazards under OSHA, and took steps in furtherance of this mandate when
it limited cell phone and radio usage, it retained wide-ranging discretion regarding the
appropriate manner to address such issues. Such discretion was well suited for the collective-
bargaining process. Moreover, the Company, minimally, had the flexibility to discuss with the
20 Union, prior to implementation, the following matters: the list of prohibited items (i.e., cell
phones, iphones, ipods, etc.); the applicable facility locations (i.e., which departments required a
total ban and which did not); the affected positions (i.e. which positions required a total ban and
which did not);¹² as well as the interplay between shift and the ban (i.e. how, if at all, one’s shift
affected their coverage under the CR policy). The Company’s wide-ranging discretion to discuss
these issues rendered the CR policy well-suited for bargaining. See *Hanes Corp.*, supra.

25

Conclusions of Law

1. The Company is an employer engaged in commerce within the meaning of
Section 2(2), (6), and (7) of the Act.

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2. The Union is a labor organization within the meaning of Section 2(5) of the Act.

3. The Union is, and, at all material times was, the exclusive bargaining
representative for the following appropriate unit:

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All full-time and regular part-time employees, including production, plastics,
blending, maintenance, warehouse, plant clericals, quality inspectors and truck
drivers employed at the Company’s West Memphis, Arkansas facility, excluding
all office clerical employees, professional employees, quality control employees,
40 housekeeping employees, temporary employees, guards and supervisors as
defined by the Act.

4. The Company violated Section 8(a)(1) and (5) of the Act by unilaterally changing

¹² For example, such discussions could have, arguably, addressed whether a unit office worker (i.e. Howard), who presumably encounters fewer workplace hazards, could have been safely regulated under to a less stringent CR policy than a forklift operator (i.e. Morris), who encounters additional workplace hazards.

the CR policy applicable to the unit.

5. The unfair labor practice set forth above affects commerce within the meaning of Section 2(6) and (7) of the Act.

Remedy

Having found that the Company has engaged in certain unfair labor practices, I find that it must be ordered to cease and desist and to take certain affirmative action designed to effectuate the policies of the Act.

The Company is required to, upon request by the Union, rescind the amended facility-wide CR policy that was promulgated on November 16, restore the status quo ante, and engage in bargaining concerning these issues. Restoration of the status quo ante shall also include expunging all reports, memoranda, written warnings and disciplinary records, if any, which were connected to its promulgation and enforcement of the amended facility-wide CR policy.

The Company is also ordered to distribute appropriate remedial notices electronically via email, intranet, internet, or other appropriate electronic means to unit employees at the facility, in addition to the traditional physical posting of paper notices. See *J Picini Flooring*, 356 NLRB No. 9 (2010).

On these findings of fact and conclusions of law, and on the entire record, I issue the following recommended¹³

ORDER

The Respondent, Warren Unilube, Inc., West Memphis, Arkansas, its officers, agents, successors, and assigns, shall

1. Cease and desist from

a. Implementing new CR policies without bargaining with the Union. The appropriate bargaining unit is:

All full-time and regular part-time employees, including production, plastics, blending, maintenance, warehouse, plant clericals, quality inspectors and truck drivers employed at the Company's West Memphis, Arkansas facility, excluding all office clerical employees, professional employees, quality control employees, housekeeping employees, temporary employees, guards and supervisors as defined by the Act.

b. Refusing to bargain with the Union regarding CR policies.

¹³ If no exceptions are filed as provided by Sec. 102.46 of the Board's Rules and Regulations, the findings, conclusions, and recommended Order shall, as provided in Sec. 102.48 of the Rules, be adopted by the Board and all objections to them shall be deemed waived for all purposes.

c. In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

a. Upon request by the Union, rescind the amended facility-wide CR policy, and restore the former CR policy that was in existence immediately before Respondent unilaterally eliminated this policy.

b. Upon request by the Union, bargain in good faith regarding the CR policy applicable to the unit, and, if any agreement is reached, embody their understanding in a signed agreement.

c. Within 14 days after service by the Region, physically post at the West Memphis facility, and electronically distribute via email, intranet, internet, or other electronic means to its unit employees, who were employed by the Company at its West Memphis facility at any time since November 16, 2010, copies of the attached notice marked "Appendix."¹⁴ Copies of the notice, on forms provided by the Regional Director for Region 26, after being signed by the Respondent's authorized representative, shall be physically posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 16, 2010.

d. Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C., September 30, 2011.

Robert A. Ringler
Administrative Law Judge

¹⁴ If this Order is enforced by a judgment of a United States Court of Appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

APPENDIX

NOTICE TO EMPLOYEES

Posted by Order of the
National Labor Relations Board
An Agency of the United States Government

The National Labor Relations Board has found that we violated Federal labor law and has ordered us to post and obey this notice.

FEDERAL LAW GIVES YOU THE RIGHT TO

Form, join, or assist a union
Choose representatives to bargain with us on your behalf
Act together with other employees for your benefit and protection
Choose not to engage in any of these protected activities

WE WILL NOT do anything that interferes with these rights. Specifically,

WE WILL NOT refuse to bargain with the Union, as the exclusive bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time employees, including production, plastics, blending, maintenance, warehouse, plant clericals, quality inspectors and truck drivers employed at the Company's West Memphis, Arkansas facility, excluding all office clerical employees, professional employees, quality control employees, housekeeping employees, temporary employees, guards and supervisors as defined by the Act.

WE WILL NOT refuse to bargain with the Union regarding the usage of cell phones, radios, boom boxes and other portable listening devices at the facility, or create policies restricting such usage, without first bargaining with the Union.

WE WILL NOT in any other manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, upon request by the Union, rescind the changes we made to our cell phone, radio and portable listing device policy, and reinstate the policy that was in effect immediately before we unilaterally changed our cell phone, radio and portable listing device policy.

WE WILL, upon request by the Union, bargain in good faith with it over changes to our cell phone, radio and portable listing device usage policies at the facility.

WARREN UNILUBE, INC.
(Employer)

Dated: _____ **By:** _____
(Representative) **(Title)**

The National Labor Relations Board is an independent Federal agency created in 1935 to enforce the National Labor Relations Act. It conducts secret-ballot elections to determine whether employees want union representation and it investigates and remedies unfair labor practices by employers and unions. To find out more about your rights under the Act and how to file a charge or election petition, you may speak confidentially to any agent with the Board's Regional Office set forth below. You may also obtain information from the Board's website: www.nlr.gov.

The Brinkley Plaza Bldg., Suite 350, 80 Monroe Avenue, Memphis, TN 38103-2481
(901) 544-0018, Hours: 8 a.m. to 4:30 p.m.

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE

THIS NOTICE MUST REMAIN POSTED FOR 60 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE ABOVE REGIONAL OFFICE'S COMPLIANCE OFFICER, (901) 544-0011.